

United States District Court
Eastern District of Michigan

United States of America

ORDER OF DETENTION PENDING TRIAL

v.

CURTIS ALAN OSSTYN /

Case Number: 09-30274

Defendant

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

✓ (1) I find that:

- ✓ there is probable cause to believe that the defendant has committed an offense
- ✓ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- ☐ under 18 U.S.C. § 924(c).

✓ (2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

✓ I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

☐ I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

✓ I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- ✓ (a) nature of the offense - Mr. Osstyn is charged by Criminal Complaint with attempted possession with intent to deliver 1000 kilograms or more of marijuana.
- ✓ (b) weight of the evidence - The evidence is strong and includes eye witness agent testimony and the defendant's post-Miranda statement.
- ✓ (c) history and characteristics of the defendant -
 - ✓ 1) physical and mental condition - Good health.
 - ✓ 2) employment, financial, family ties - Defendant has employment and community ties.
 - ✓ 3) criminal history and record of appearance - Defendant has a prior felony drug distribution conviction in 2002.
- ☐ (d) probation, parole or bond at time of the alleged offense -
- ☐ (e) danger to another person or community -

This defendant was the primary actor in the charged offense. He directed the agent (undercover) in the delivery of more than a ton of marijuana. The telephone employed by him during the charged conduct has been recovered. Defendant attempted to flee from the arresting agents and discarded the phone. While he has a job and community ties, he faces a mandatory minimum sentence of 20 years upon conviction. He has failed to rebut the presumption in favor of detention.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: June 25, 2009

s/Donald A. Scheer*Signature of Judge*Donald A. Scheer, United States Magistrate Judge*Name and Title of Judge*